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precautions which ordinary prudence might otherwise have suggested.

[Ed. Note.—For cases in point, see vol. 34, Cent. Dig. Master and Servant, §§ 675-677.]

**4. Damages—Personal Injuries—Excessive Damages.**—Where plaintiff, a quarry employee, had his left hand broken and otherwise injured, his face cut and burned with powder, and a section of his teeth knocked loose, his wage-earning capacity being reduced from \$1.25 to \$1 per day, a verdict of \$1,205 was not excessive; there being no pretense that the jury was actuated by prejudice or partiality.

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NORFOLK & W. RY. CO. v. SPENCER'S ADM'X.

Dec. 7, 1905.

[52 S. E. 310.]

**1. Evidence—Mortality Tables.**—In an action for death, standard mortality tables are admissible to show the probable expectancy of the life of deceased.

[Ed. Note.—For cases in point, see vol. 17, Cent. Dig. Death, § 84; vol. 20, Cent. Dig. Evidence, § 1520.]

**2. Negligence—Action—Instructions—Contributory Negligence.**—The court instructed that, although plaintiff's intestate might have been guilty of negligence, and although that negligence might in fact have contributed to the accident, yet, if defendant could, in the result, by the exercise of ordinary care and diligence, have avoided the accident, plaintiff's negligence would not excuse defendant. Held, that the instruction was proper in form.

[Ed. Note.—For cases in point, see vol. 37, Cent. Dig. Negligence, §§ 115, 392.]

**3. Master and Servant—Injuries—Negligence—Evidence—Sufficiency.**—In an action for the death of a locomotive engineer in a collision between his train and another, evidence held sufficient to warrant a finding that the engineer of the other train could have moved his train after knowledge of the danger, so as to have avoided the accident.

**4. Same—Question for Jury.**—In an action for the death of a locomotive engineer in a collision between his train and another, held, that it was a question for the jury whether the conductor of the other train was guilty of negligence in having his train standing beyond the limits prescribed by an order.

**5. New Trial—Grounds—Discrediting Opposite Witness.**—As a general rule, a new trial will not be granted to enable the moving party to discredit an opposite witness.

[Ed. Note.—For cases in point, see vol. 37, Cent. Dig. New Trial, §§ 221-223.]

**6. Master and Servant—Negligence—Evidence—Sufficiency.**—In an

action for the death of a locomotive engineer in a collision between his train and another, evidence held sufficient to warrant a finding that there was negligence in failing to put down torpedoes as a warning to deceased.

**7. Appeal—Review—Conflicting Evidence.**—Where the evidence on the question of negligence is conflicting, the verdict will not be disturbed unless palpably erroneous.

[Ed. Note.—For cases in point, see vol. 3, Cent. Dig. Appeal and Error, §§ 3935-3937.]

**8. Same—Weight of Evidence.**—The Supreme Court will not undertake to pass upon the weight of the evidence.

[Ed. Note.—For cases in point, see vol. 3, Cent. Dig. Appeal and Error, §§ 3928-3943.]

**9. Master and Servant—Contributory Negligence—Question for Jury.**—In an action for the death of a locomotive engineer in a collision between his train and another, held, that the question of contributory negligence was one for the jury.

**10. Appeal—Review—Question of Fact.**—Where it is impossible to say that reasonable men might not differ in their judgment on the question of contributory negligence, the Supreme Court will not disturb a verdict for plaintiff.